

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:05-CV-198
)	
3825558 CANADA, INC.,)	
9100-7492 QUEBEC, INC.,)	
4118812 CANADA, INC.,)	
9117-2031 QUEBEC, INC.,)	
6192301 CANADA, LTD.,)	
STÉPHANE CHAGNON,)	
MANON CHOQUET,)	
RÉMI TÉTRAULT, AND)	
9155-2489 QUEBEC, INC.)	
)	
Defendants.)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

(Paper 21)

Based upon the testimony of witnesses and the evidence admitted by the Court at the hearing on Plaintiff's Motion for Contempt, on Wednesday, February 21, 2007, the Court makes the following findings and conclusions.

I. OVERVIEW

1. This is a motion for civil contempt against Stéphane Chagnon, Manon Choquet and three Quebec transport companies operated and controlled by them—9117-2031 Quebec, Inc. ("Freedom Transport"), 9165-9201 Quebec, Inc. ("9165") and 6615163 Canada, Inc. ("Machinery Trader") for violations of this Court's Order for an Injunction and Entry of Judgment ("Injunction") filed February 7, 2006.

2. The Injunction forbids Stéphane Chagnon, Manon Choquet, Freedom Transport as well as their alter egos, lessees and assigns from owning, operating, managing or having any relationship with any company providing interstate transportation services within the United States including, without limitation, acting as an officer or director of a corporation providing interstate transportation services, obtaining permits for a company providing interstate transportation services, driving or leasing any commercial motor vehicle in interstate transportation, or acting as a safety director or consultant for any company providing interstate transportation services within the United States. *See* Paper 11 (emphasis added).

3. Stéphane Chagnon and Manon Choquet, husband and wife, are residents of Quebec, Canada. Their home address is 1180 Chemin Plouffe, St-Jacques, QC J0K 2R0. Trial Exhibit 1, 23; Testimony of André Pélissier, Sergent, Contrôle routier Québec.

4. Chagnon and Choquet have operated Canadian commercial trucking companies, specializing in oversized loads (over-height, over-width, and over-weight) for many years. Since 2003, they have been forbidden to operate in the United States by the Motor Carrier Safety Administration (“Safety Administration”), the federal agency that enforces motor carrier safety within the United States. Testimony of Judith Hinds. To circumvent the Safety Administration’s Out Of Service Orders and to avoid detection, Chagnon and Choquet have formed new Canadian trucking companies that are frank alter egos of their prior companies. *See* attached Chart, Trial Exhibit 25.

5. Mainly incorporated in Quebec, these companies, with the exception of Gestion Stéphane Chagnon Internationale and John Smith Transport, bear numbered names such as 9165-9201 Quebec, Inc. and 6615163 Canada, Inc. *Id.* Only one transport company, 9117-2031

Quebec, Inc. (Freedom Transport), is openly owned and operated by Stéphane Chagnon. Exhibit 23 (Chagnon is Administrator, President, Secretary, Treasurer and majority shareholder of 9117 d/b/a Freedom Transport).

6. Stéphane Chagnon and Manon Choquet were served with the Injunction on February 10, 2006, when FedEx delivered packages containing copies of the Injunction to their home at 1180 Chemin Plouffe, St-Jacques, QC. Testimony of Pamela Lane.

7. Just six days after Chagnon and Choquet were served with this Court's Injunction, a new transport company, 9165-9201 Quebec, Inc., was incorporated in Quebec. Exhibit 23 (certified documents of incorporation).

8. The President of 9165-9201 Quebec, Inc., is an individual named John Smith. Sergeant André Pélissier testified, "John Smith, he does not exist." Similarly, John Smith's alleged address in Montreal does not exist. Testimony of Sergeant André Pélissier. The company's address, 1000 de la Gauchetiere West, Suite 1400, Montreal, QC H3B 4W5, is a virtual mailbox business, similar to MailBoxes, Etc. in the United States. *Id.* The telephone number listed on the application for the virtual mailbox is (514) 233-3060, a cell phone assigned to Stéphane Chagnon and utilized by Manon Choquet. *Id.* See Paragraphs 48-49, below.

9. Approximately six months after the Injunction was served, yet another Quebec numbered company was formed. Testimony of Sergeant André Pélissier; Exhibit 23 (certified documents of incorporation). On August 29, 2006, while Chagnon, under the pseudonym "Mike Smith," was concluding the purchase of a 1999 Western Star Tractor from Dave Porter Truck Sales in Wrightsville, Missouri, 6615163 Canada, Inc. ("Machinery Trader") was incorporated in Quebec. The newly purchased 1999 Western Star was registered to the new transport company.

Testimony of Sergeant André Pélissier; Testimony of Dan Barnes; Exhibit 22.

10. The supposed President of 6615163 Canada, Inc. is John McDonald—again, he is an individual who does not exist. Testimony of Sergeant André Pélissier. The alleged address of John McDonald, 3429 Papineau, Montreal, PQ H2K 4J7, also does not exist. *Id.* The address of the company, 400 Boul. St-Martin West, Suite 200, Chomedey, PQ H7M 3Y8, is another virtual mailbox establishment. *Id.* This address, however, is not active and pleadings sent by the Office of the United States Attorney to this address are returned to sender and marked, “Moved, Return To Sender.” Exhibit B; Testimony of Pamela Lane.

11. Hiding behind the flimsy facades of these numbered companies, which, as shown below, are alter egos, Chagnon and Choquet committed at least fourteen operating violations of this Court’s Injunction after February 10, 2006 as well as at least twenty-seven permit violations of the Injunction during that same period.

12. The United States seeks contempt sanctions against Stéphane Chagnon, Manon Choquet, 9117, 9165 and 6615, jointly and severally, in the amount of \$15,000 for each operating violation of the injunction ($14 \times \$15,000 = \$210,000$) as well as \$2,000 for each of the twenty-seven permit violations ($27 \times \$2,000 = \$54,000$), for a total of \$264,000.

II. BACKGROUND

13. In September 2002 and July 2003, the Safety Administration issued Out of Service Orders (OOSO) against 3825558 Canada, Inc. (“Power Transportation”), 9061-2110 Quebec, Inc., (“Discover”), as well as 9100-7492 Quebec, Inc. (also doing business as “Power Transportation”) for serious safety violations including, for instance, the use of drivers who had tested positive for illegal drug use, as well as the illegal alteration of oversize load permits. An

OOSO prohibits commercial motor carrier from operating in the United States. The Safety Administration determined, based upon on-site Compliance Reviews and interviews conducted at the companies' headquarters in L'Assomption, Quebec, that Power and Discover were operated and controlled by Stéphane Chagnon and Manon Choquet. Testimony of Judith Hinds.

14. Chagnon and Choquet, as well as an associate, Rémi Tétrault, were placed out of service (as individuals) in the United States by the Safety Administration in July 2003.

Testimony of Judith Hinds; *see also* Chart, Exhibit 25.

15. Between February 2001 and December 2006, the Quebec Transportation Commission also investigated Chagnon, Choquet and their various Canadian transport companies. Testimony of Michel Fradette, Inspecteur, Commission des transports du Québec. The Commission has authored approximately 45 written decisions involving Chagnon and Choquet and has declared them (as individuals) as well as eight of their alter ego transport companies, to be unfit to operate heavy vehicles upon the highways of Quebec ("Unfit"). *Id.*; *see, e.g.*, Exhibits 24 and 28; *see also* Chart, Exhibit 25. The attorney Bênet Côté has represented Stéphane Chagnon as well as a number of his companies before the Commission. Exhibit 28.

16. In the United States, Chagnon, Choquet, Discover, Power and 9100 have been assessed administrative penalties by the Safety Administration in excess of \$150,000 that have never been paid. Testimony of Judith Hinds.

17. Power Transportation continued to operate in the United States despite the OOSOs. On March 23, 2004, for instance, Trooper Dale Steger, assigned to Commercial Vehicle Enforcement, stopped a tractor trailer near Buffalo, New York that was carrying a large forklift.

He recognized the tractor as belonging to a company that had a history of oversize load violations. After speaking with the driver and reviewing the documents from the driver's permit book, Trooper Steger determined that the carrier was Power Transportation and learned that Power had been subject to an OOSO since July 2003. Testimony of Trooper Dale Steger. Among the business records pertaining to this roadside inspection, is a Driver/Vehicle Examination Report ("Roadside Inspection Report"). Exhibit 11. These Roadside Inspection Reports document the operation of a Canadian transport company within the United States and are maintained as business records by the various states. These reports are also tracked by the Safety Administration as they contain evidence of a carrier's safety record. Testimony of Judith Hinds.

18. In fact, during a March, 2003 compliance review in Québec, both Stéphane Chagnon and Rémi Tétrault admitted to Judith Hinds that Power had continued to operate in the United States despite the OOSOs because Chagnon and Tétrault "needed to make a living." Testimony of Judith Hinds.

19. Trooper Dale Steger's roadside inspection also revealed, however, the existence of a newer alter ego company that had been formed since Discover had been placed out of service by the Safety Administration. Testimony of Dale Steger; see Chart, Exhibit 25; Exhibit 10.

20. Painted in large letters on the tractor cab were the words, "Freedom Transportation, div. 9117-2031 Quebec, Inc." See photographs, Exhibit 10. The driver's papers were a mélange of permits, registrations, bills of lading, insurance certificates and other documents issued variously to Power Transportation, 9100, 4118812 Canada, Inc. ("S.T. Transport") and, most importantly, 9117-2031 Quebec, Inc. The contact name on the New York State Thruway Special

Hauling Permit was Manon Choquet. *See* Exhibit 11. As painted on the tractor's cab, however, there was a discrepancy between the name Freedom Transport and the DOT and MC numbers. The latter numbers were assigned to Power Transportation, not Freedom Transport. Testimony of Trooper Dale Steger. The address of 9117-2031 Quebec, Inc., as it appeared on the International Fuel Tax Agreement, was 1180 Chemin Plouffe, St-Jacques, PQ J0K 2R0. *See* Exhibit 11. In light of these many anomalies, Trooper Steger relied upon information from the driver who said he was working for Power Transportation. *Id.*

21. In fact, 9117-2031 Quebec, Inc., doing business as Freedom Transport, had been incorporated in Quebec in May of 2002 and its President, Shareholder, and Administrator is Stéphane Chagnon. Exhibit 23; Testimony of Sergent André Pélissier. The address of Freedom Transport is 1180 Chemin Plouffe, St-Jacques, QC, the home address of Stéphane Chagnon and Manon Choquet. *Id.*

22. After the Safety Administration referred the matter to the Office of the United States Attorney, the Complaint in this matter was filed. Testimony of Judith Hinds. On February 6, 2006, this Court issued a broad Injunction against Power Transportation, 9100, S.T. Transport, and 9117 (Freedom Transport) as well as Stéphane Chagnon and Manon Choquet. Paper 17. The Injunction forbids these individuals and companies, as well as their alter egos, from conducting commercial transportation operations in the United States. Paper 17.

23. The United States filed a Motion For Civil Contempt and to Detain Commercial Motor Vehicle to Maintain the Status Quo together with an Order To Show Cause And Order To Detain Commercial Motor Vehicle to Maintain Status Quo on December 13, 2006, after it was discovered that a tractor trailer, driven by Yves Mercier and owned by 6615163 Canada, Inc., had

entered the Peace Bridge Port of Entry near Buffalo, New York hauling an oversized load. *See* Paper 21. On December 14, 2006, the Court signed the Order to Show Cause And Order To Detain Commercial Motor Vehicle and it was served upon Stéphane Chagnon and Manon Choquet by FedEx on December 14, 2006. Papers 31 and 33; Exhibit 1.

24. On January 16, 2007, Sheehy Furlong & Behm P.C. entered an appearance for Stéphane Chagnon and Manon Choquet, opposing the Motion For Contempt and filed the Declarations of Yves Mercier and Rémi Tétrault in support of their Opposition.

25. On February 20, 2007, the day before the hearing, Attorney Eric Miller apprized the Court that his clients did not intend to defend against the contempt motion, intended to withdraw their Opposition and Declarations, and would not appear at the evidentiary hearing.

26. On February 21, 2007, the United States presented eleven witnesses in support of its request for a contempt judgment, including two Quebec inspectors, André Pélissier and Michel Fradette; two Customs and Border Protection Officers; a New York State Trooper; two business customers of Stéphane Chagnon from Florida and New Hampshire; an employee of Custom Permit Services of Columbus, Ohio; a representative of Dave Porter Truck Sales of Wrightsville, Missouri, the truck dealer who sold the 1999 Western Star tractor to 6615163 Quebec, Inc.; and Judith Hinds, the Safety Program Manager for the Vermont Division of the Federal Motor Carrier Safety Administration (“Safety Administration”).

III. STÉPHANE CHAGNON, MANON CHOQUET
9117-9031, QUEBEC, INC. 9165-9201 QUEBEC, INC. AND 6615163 CANADA, INC.
SHOULD BE HELD IN CONTEMPT

A. The Alter Ego Evidence

1. The Memo Form

27. Stéphane Chagnon has presented directly to the United States Attorney's Office a key piece of evidence himself. That evidence is a memorandum form ("Memo Form") used by Chagnon and Choquet to communicate with their United States transport customers. The Memo Form bears the name of the company, Freedom Transport, across the top in script together with its phone, facsimile and toll free numbers. Also included, at times, is an email address, freedomtransport@videotron.ca. Exhibit 1. The form is easily altered, as will be seen below, to carry the name and information of any company operated by Chagnon and Choquet. The font, the format and the general style of the Memo Form rarely change. Depending upon their motives and using these Memo Forms, Chagnon and Choquet change the names, addresses and numbers of their companies at will.

28. In response to the Order To Show Cause And Order To Detain Commercial Motor Vehicle, Stéphane Chagnon communicated via FedEx directly with the Office of the United States Attorney (using the FedEx account number of that Office without authorization).
Testimony of Pamela Lane. On a Memo Form bearing the heading "Freedom Transport," Stéphane Chagnon sent a signed letter to Assistant United States Attorney, Nancy J. Creswell, stating, in part:

I did understand there was 3 set of paper. I got no problem with me.
I still do not have any problem for manon choquet. But for 6615163
canada, inc. I cannot accept it. I got no direct relation ship [sic]
with that company and I do not dealing with them. So, I resend back
something that do not is not address to me.

Exhibit 1. At the top of the Memo Form in large letters appear the words, "Without Prejudice."
Id. Chagnon signed this letter with a large capital C, his characteristic signature. Testimony of Judith Hinds; *see also* Exhibits 16, 31 (documents signed with a large "C"). This Memo Form

appeared many times throughout the hearing and, most notably, appears in the business records of several of Chagnon's post-injunction United States customers.

2. Telephone Numbers

29. On the Memo Form sent to AUSA Creswell appear the phone number (450) 839-1183, the fax number (450) 839-9489, and the email address, freedomtransport@videotron.ca. These phone and fax numbers as well as the email address all solidly link Chagnon and Choquet to 9117-2031 Quebec, Inc., 9165-9201 Quebec, Inc. and 6615163 Canada, Inc. Phone Number Chart, Exhibit 26.

30. Moreover, Chagnon and Choquet are identified with the cell phone (514) 233-3060. This cell phone number is assigned to Stéphane Chagnon and was used by Choquet to call 911 on July 12, 2006 when she tried to enlist the assistance of the Montreal police in an incident more fully described below. Testimony of André Pélissier and Michel Fradette. Exhibit 20.

3. The FedEx Account Of Freedom Transport

31. Chagnon and Choquet have maintained a FedEx Account with the Customer Number 2620-4219-7. The Certified Business Records of FedEx reveal that this account is maintained in the name of Freedom Transport, 1180 Ch. Plouffe, Saint-Jacques, PQ J0K 2R0, the home address of Chagnon and Choquet. The contact on the account is Manon Choquet whose phone number is (450) 839-1183. The former name on this same account was Power Transportation, a previous business associated with Chagnon and Choquet. *See* Chart, Exhibit 25; *see also* Exhibit 31; Testimony of Judith Hinds. A review of the individual transactions on this FedEx Account reveal communications between Yves Mercier and Freedom Transport, between Yves Mercier and the Shelby, Montana Justice Court, and between 6615163 Canada, Inc. and Dave Porter

Truck Sales, as well as many other mailings.

4. The 1999 Western Star Tractor

32. The 1999 Western Star tractor, registered to 6615163 Canada, Inc. and driven by Yves Mercier, is a solid link between Chagnon, Choquet and 6615163 Canada, Inc. The Certified Bill of Sale for the 1999 Western Star, Serial No. 2WKEDDCJ7XK958732, signed by Yves Mercier, bears the fax number (450) 839-9489 and the toll free number (800) 461-1434. Exhibit 5. Testimony of Dan Barnes. A Memo Form titled 6615163 Canada, Inc., sent to Dan Barnes, the salesman at Dave Porter Truck Sales, bears the same font and format as the Freedom Transport Memo Forms described above. Exhibit 5.

33. In August of 2006, Dave Porter Truck Sales in Wrightsville, Missouri offered the 1999 Western Star Tractor for sale on the internet. Pretending to be “Mike Smith from Pennsylvania,” Stéphane Chagnon called the salesman, Dan Barnes, to inquire about the tractor on August 23, 2006. *Id.* Chagnon left a telephone number where he could be reached, (800) 461-1434. *Id.* He told Dan Barnes that he would send his driver to look at the tractor. Several days later, Yves Mercier, driving a Penske rental tractor, appeared at the dealership. The sale was made. *Id.* A bank check in the amount of \$29,500 for the purchase of the tractor was sent via FedEx to Dave Porter Truck Sales by “John” from the address 1180 Chemin Plouffe, St-Jacques, Quebec, the home address of Stéphane Chagnon. Testimony of Dan Barnes. The Bank of Canada account from which the funds were drawn is the account of Freedom Transport and the only authorized signatory on the account is Stéphane Chagnon. Testimony of Sergent André Pélissier.

34. The FedEx account number No. 2620-4219-7, as recorded on the FedEx envelope

sent to Dave Porter Truck Sales, is the account of Freedom Transport. The FedEx business records show clearly the envelope sent to Dave Porter Truck Sales as well as a return FedEx transmission from Dave Porter Truck Sales addressed to “Manon.” Exhibit 4 (FedEx certified business records); Testimony of Dan Barnes. The fax number for the buyer on the bill of sale for the tractor is (450) 839-9489.

35. The tractor was registered in Quebec to 6615163 Canada, Inc. and that company, under the purported signature of John McDonald, issued a proxy authorizing Yves Mercier to register the tractor in the name of that company. Testimony of Sergent André Pélissier. Under Quebec law, only the owner of a vehicle may register it. Testimony of Michel Fradette. On September 8, 2006, the 1999 Western Star was personally driven by Stéphane Chagnon to Joliette Dodge Chrysler Ltd. in Joliette, QC, for its annual inspection. Exhibit 21, 22; Testimony of Sergent André Pélissier.

36. After the 1999 Western Star was held at Peace Bridge on December 7, 2007, “Mike Smith” telephoned Dan Barnes and wanted to know whether any third parties had recently contacted Dan asking about the sale to 6615163 Canada, Inc. Testimony of Dan Barnes.

5. Yves Mercier

37. Yves Mercier, a resident of St-Sulpice, Quebec, is a driver for Chagnon and Choquet. He has been stopped for roadside inspections all across the United States driving a Penske rental tractor or the 1999 Western Star tractor purchased from Dave Porter Truck Sales. On December 7, 2006, he told Customs and Border Patrol Officer T. J. Webb that he worked for John McDonald, that he had never met John McDonald and did not know who paid him or how much he earned. Furthermore, he claimed that his wife drove him to meet John McDonald’s dispatcher

in L'Assomption, Quebec where the tractor was turned over to Mercier. From there, Mercier claimed that he drove the dispatcher to Montreal and then went on to pick up and deliver the load.

38. The information given by Mercier to Officer Webb is not consistent with the Declaration, now withdrawn, that Mercier signed and filed in this case under oath. See Paper 41 (withdrawn). In that Declaration, he stated, "I introduced Mr. McDonald to Mr. Tetrault when Mr. McDonald approached me looking for somebody who could transport heavy equipment from Vancouver to Montreal."

39. Yves Mercier is identified with every single operating violation for which the United States requests contempt penalties.

IV. OPERATING VIOLATIONS OF THE INJUNCTION

A. Freedom Transport (9117-02031 Quebec, Inc.)

40. **First Violation.** Annie Boyce, the office manager of C&S Freightways, Inc., Weirsville, Florida, testified that Freedom Transport, operated by Stéphane Chagnon, carried three oversized loads for C&S, a transportation broker, after February 10, 2006. Each of these loads were carried in the United States. Two of the loads originated in Canada and the third originated in Florida, bound for Canada.

41. The first load, a 73,000 lb. crane, was carried in mid-May, 2006. Exhibit 16. Appearing on C&S's "Carrier Rate Confirmation Sheet" is the signature of Stéphane Chagnon, a large, capital C. Also appearing on these business records is the toll free number (800) 461-1434 utilized by Chagnon and Choquet. *Id.* The contact name is "Steven." The carrier is "Freedom Transportation," which agreed to transport a crane from Oaksville, Ontario to Palmetto, Florida.

Id. The alleged MC number of this company is 270632. According to Annie Boyce, this load was delivered successfully to Florida.

42. **Second Violation.** The second load was carried for C&S at the end of May, 2006. Exhibit 17. This time, Freedom Transport carried a 100,000 lb. “Push Back Tractor” (a large piece of equipment utilized at airports to move airplanes and other large objects), from Miami, Florida to Mississauga, Ontario. *Id.* Testimony of Annie Boyce. Among the business records of C&S for this load are five Memo Forms from “steven,” “steven’s wife,” and Stéphane that identify “Freedom Transport” as a “div. 9117-2031 Quebec, Inc.,” with an address of 1180 Chemin Plouffe, St-Jacques, Quebec. The telephone number is (450) 839-1183, the fax number is (450) 839-9489 and the toll free number is (800) 461-1434. Freedom’s email address is identified as freedomtransport@videotron.ca. Exhibit 17. The identification of Freedom Transport as a “div. 9117-2031 Quebec, Inc.” links it without doubt to the company incorporated in Quebec by Chagnon himself. Exhibit 23.

43. The Memo Forms sent by Chagnon and Choquet to C&S for this second load are significant. Three of the five memos list Freedom Transport as a “div 9117-2031 Quebec, Inc.” The other two are virtually identical to the Memo Form received by Nancy J. Creswell on December 19, 2006 from Chagnon that simply identifies the carrier as “Freedom Transport.”

B. 9165-9201 Quebec, Inc.

44. **Third Violation.** At the end of June, 2006, four months after the injunction was served, Steven from Freedom Transport, contracted to carry a third load for C&S—a 32,000 lb. Cargo Loader. Numerous Memo Forms bearing the familiar heading, “Freedom Transport div. 9117-2031 Quebec, Inc.” appear in the business records of C&S for this load. Exhibit 18. The

load was to be picked up in Dorval, Quebec and hauled to Miami, Florida. Exhibit 18.

45. On July 18, 2006, Chagnon's driver Yves Mercier was stopped at the Ambassador Bridge near Detroit, Michigan, carrying this load. Exhibits 18, 29. As his license was suspended in New York and Montana, Mercier and the load were sent back to Canada. Testimony of Annie Boyce; *see also* Exhibit 29 (certified copy of Roadside Inspection Report from inspection at Ambassador Bridge). Thereafter, on July 19, 2006, Yves Mercier, utilizing the FedEx account number of Freedom Transport, 1180 Chemin Plouffe, St-Jacques, Quebec, sent a certified check for \$70.00 to the Justice Court of Montana, in Shelby, Montana, to rectify his license suspension in that state. Exhibit 15; Exhibit 4 (FedEx records). On the letter sent to Justice Court by Yves Mercier appear the return phone number of (450) 839-1183 and the fax number (450) 839-9489. Exhibit 15. Among C&S's business records relating to this trip is a Memo Form from Stéphane Chagnon acknowledging that the driver was "turn off at border because he has a ticket in montana (10 years ago)." Exhibit 18.

46. When the load was not delivered, C&S reported to the Ontario Provincial Police that the load was stolen. Exhibit 18. After reporting the load stolen, C&S began to receive Memo Forms of a different ilk. First, the Memo Forms were threatening. Second, they now identified Freedom Transport as "div. 91659201 Quebec, Inc." Third, they purported to be from Mike and John Smith with an address of 1000 de la Gauchetiere, Montreal, QC. Exhibit 18. In the body of one memo, the writer identified himself as "mike smith, the owner of freedom transport, 9165-9201 Quebec, Inc." Exhibit 18. Mike Smith identified his phone number as (514) 233-3060 which is a cell phone utilized by Manon Choquet. Another Memo Form carries the warning, "Without Prejudice." During various telephone calls with the alleged "Mike Smith," Annie

Boyce recognized the voice of Stéphane Chagnon and after confronting him, he admitted that he was Stéphane Chagnon and not “Mike Smith.” Testimony of Annie Boyce.

47. Unfortunately for C&S, Chagnon, Choquet and Freedom Transport abandoned the load at a Husky Truck Stop in Canada and it was five months before C&S could find the load and arrange for alternative transportation. Testimony of Annie Boyce. One of the final Memo Forms from Chagnon, written under the name of Mike Smith, tells Annie that, “By the way, I believe you can called all police you want, you will need a injunction by a judge.” Exhibit 18. Attempts to negotiate with 6615's attorney, Bênet Côté, were unsuccessful. Exhibit 18.

48. **Fourth Violation.** On July 12, 2006, an incident occurred in the Customs Yard at Dorval, Quebec that illustrates a fourth violation of the Injunction by Chagnon, Choquet and their alter ego company, 9165-9201 Quebec, Inc.

49. The Montreal police received a 911 call from Manon Choquet using cell phone number (514) 233-3060. Exhibit 20, certified copy of 911 log. Testimony of Sergent André Pélissier. Choquet reported that there was a conflict in the Customs Yard because another carrier, Mondor Transportation, was attempting to remove a load from her trailer at the request of the shipper. *Id.* She refused to allow the load to be removed without receiving payment for transporting the load from the United States into Canada. *Id.* According to André Pélissier, both Stéphane Chagnon and Manon Choquet appeared at the Customs Yard, produced proof of their identity to the police, and tried to prevent the removal of the load from their trailer. The load, a forty-seven foot long pipe that was five feet wide, had been transported by 9165-9201 Quebec, Inc. from within the United States to the Customs Yard. The tractor was a Penske rental tractor driven by Yves Mercier.

50. When Pélissier investigated the Penske rental contract for the tractor, he learned that the lessee was 9165-9201 Quebec, Inc. with a telephone number of (514) 233-3060. The first month's rent for the tractor had been paid from the account of Freedom Transport. The only signor on that account is Stéphane Chagnon. Testimony of André Pélissier. The trailer carrying the huge pipe had been formerly owned by Gestion Stéphane Chagnon Internationale and 38255558 Canada, Inc. The plate on the trailer did not match the serial number. *See* discussion below.

51. **Fifth Violation.** On July 28, 2006, the carrier 9165-9201 Quebec, Inc., with a tractor trailer driven by Yves Mercier, was stopped in the United States for a roadside inspection in Malheur County, Oregon. 9165 was hauling an Excavator from Portland, Oregon to Laval, Quebec. Exhibit 29.

52. **Sixth Violation.** On August 10, 2006, Yves Mercier was stopped in Bernalillo, New Mexico, hauling a Toro 400. The carrier was originally identified as Freedom Transport, 1180 Chemin Plouffe, St. Jacques, QC. When the report was later signed by the supposed John McDonald and returned to United States authorities, however, the address 1180 Chemin Plouffe was crossed out and replaced with the address 1000 de la Gauchetiere West, Suite 2400, Montreal, QC (the address of 9165-9201 Quebec, Inc.). New Mexico Roadside Inspection Report, Exhibit 29.

53. **Seventh Violation.** On August 22, 2006, the carrier 9165-9201 Quebec, Inc., 1000 De La Gauchetiere, Suite 2400, Montreal, QC, was stopped for a roadside inspection in Orleans, New York on I-81 in Jefferson County. Roadside Inspection Report, Exhibit 29. The driver was Yves Mercier and the tractor trailer was placed out of service for "Operating interstate in

violation of a Federal Court order for carrier to cease operations.” *Id.*

C. 6615163 Canada, Inc.

54. **Eighth and Ninth Violations.** The eighth and ninth violations of the Injunction occurred when 6615163 Canada, Inc. hauled two Caterpillar Rock Trucks from Ste-Therese, Quebec to Ft. Pierce, Florida for Universal Truck of Portsmouth, New Hampshire. Testimony of Customs and Border Protection Officer Bill LaRoche and Joyce Weeks, an employee of Universal Truck. See Exhibits 12, 13.

55. On November 14, 2006, Yves Mercier, driving the 1999 Western Star Tractor entered the Champlain Port of Entry hauling a 79,000 lb. Rock Truck. The load was pulled by the 1999 Western Star driven by Yves Mercier. Customs Officer Bill LaRoche copied the driver’s documents and questioned Mercier at the POE. Mercier stated that he was not the owner-operator of the tractor but worked for John McDonald. He carried a customs bond authorization purportedly from Schneider Specialized Carriers, Inc. Exhibit 13, Testimony of Officer Bill LaRoche. It was later determined that the Customs Bond Authorization was a forgery. *See* discussion below.

56. Joyce Weeks of Universal Truck testified that Freedom Transport transported two Rock Trucks for her company in November of 2006, well after the Injunction was issued. One of those loads entered the Champlain Port of Entry on November 14, 2006, as described above. Among the business records of Universal Truck is the characteristic Memo Form utilized by Stéphane Chagnon. Exhibit 13. In fact, the sender of the Memo Forms openly identified himself as Stéphane Chagnon. In addition to the Memo Forms, Universal Truck corresponded with Stéphane Chagnon at his email address, freedomtransport@videotron.ca. The name of the

carrier on the Bill of Lading was 6615163 Canada, Inc., 400 Boul St-Martin Quest, Suite 200, Chomedey, Quebec doing business as “Machinery Trader.” Exhibit 13. One of the documents in the file of Universal Truck pertaining to this load carries the name Gestion Stéphane Chagnon Internationale, 1180 Chemin Plouffe, St-Jacques, PQ. Universal Truck received a bill in the amount of \$18,950.00 from Freedom Transport, 1180 Chemin Plouffe, St-Jacques, Quebec. The telephone number on the bill is (450) 839-1183 and the fax number is (450) 839-9489. On November 16, 2006, Universal Truck paid Freedom Transport with a cashier’s check in the amount of \$18,950.00 for transporting the two Rock Trucks to Ft. Pierce, Florida. Exhibit 13.

57. **Tenth Violation.** On September 21, 2006, 6615163 Canada, Inc., doing business as Machinery Trader, was stopped at Liberty Lake Port of Entry, State of Washington. The carrier was hauling machinery pieces from Chattanooga, Tennessee to Richmond, British Columbia. The driver was Yves Mercier and the tractor was the 1999 Western Star, License Plate L370036. State of Washington Roadside Inspection Report, Exhibit 29.

58. **Eleventh Violation.** On September 28, 2006, the carrier 6615163 Canada, Inc. was subject to a roadside inspection in the state of Wyoming. 6615 was stopped in Cheyenne on US-85 in Laramie County. Wyoming Roadside Inspection Report, Exhibit 29. Yves Mercier, the driver, was carrying a Loader shipped by Granite Corporation from Salt Lake City, Utah, to Montreal, Canada. Exhibit 29. The tractor was the 1999 Western Star, License Plate No. L370036. *Id.* The driver was cited for a false duty log and for failing to retain the previous 7 days logs. *Id.*

59. **Twelfth Violation.** On October 1, 2006, the 1999 Western Star, Quebec License Plate No. L370036, was stopped in Wabash County, Indiana, carrying a Loader. The driver,

Yves Mercier, was speeding and the carrier is identified as Machinery Trader, 400 Boulevard Saint Martin Ouest, Chomedey, QC. on the Motor Carrier Inspection And Violation Report. Roadside Inspection Report, Exhibit 29.

60. **Thirteenth Violation.** On October 14, 2006, the 1999 Western Star, License Plate No. L370036, driven by Yves Mercier was stopped in Nacognoches County, Texas having carried a 983 Cat Loader consigned by Midwest machine. The load originated in Montreal, Quebec and was destined for Weslaco, Texas. Exhibit 29. The carrier was Machinery Trader, 400 Boulevard St-Martin Ouest, Laval, Quebec. The load was “overwidth” and the special hauling permit had been violated by being “off route.” Texas Roadside Inspection Report, Exhibit 29.

61. **Fourteenth Violation.** On December 7, 2006, Yves Mercier, driving the 1999 Western Star tractor, entered the United States at the Peace Bridge Port of Entry near Buffalo, New York. Testimony of Officer T. J. Webb. The tractor was hauling a trailer carrying an Eaves Forklift weighing 88,000 lbs. destined for Alvin, Texas. Exhibit 14. The Manifest reveals the carrier to be 6615163 Canada, Inc. and the origin of the load was Oakville, Ontario. Id. The Commonwealth of Pennsylvania Special Hauling Permit was issued by Custom Permit Service Company, the annual inspection report for the tractor had been issued by Dave Porter Truck Sales, and the telephone number recorded on the State of Ohio Special Hauling Permit was (450) 839-1183. Among the documents carried by Yves Mercier was a Memo Form, (similar to those utilized by Stéphane Chagnon for Freedom Transport) in the name of 6615163 Canada, Inc. doing business as Machinery Trader. The Memo Form contained directions to the driver and the instruction to “change the plate.” Exhibit 14. Mercier also carried an Ontario registration for the

trailer in the name of 6615163 Canada, Inc. but with the address of 1 Young St., Suite 1801, Toronto, Ontario. This is not the address of 6615163 Canada, Inc. It is the address of 66192301 Canada, Inc. (“Heavy Hauling”), another of Chagnon’s alter ego companies. *See* Exhibit 25. The trailer registration appears to have been altered. When questioned by Customs Officers, Yves Mercier stated that he worked for John McDonald, that he had never met John McDonald and that a dispatcher met him with the tractor in L’Assomption, Quebec where Mercier then took over the load. Testimony of Officer T.J. Webb. He stated that he had worked for McDonald for two to three months and had previously worked for Freedom Transport for two to three years. He stated that he did not know who pays him or how much he earns. Testimony of Officer T.J. Webb. Ultimately, the Court ordered that the tractor and the trailer be held at Peace Bridge as security for a money judgment in this contempt action.

V. PERMIT VIOLATIONS OF THE INJUNCTION

62. The Injunction forbids Stéphane Chagnon, Manon Choquet, 9117-2031 Quebec, Inc. as well as their alter egos, lessees and assigns from obtaining permits for a company providing interstate transportation services. Paper 17.

63. Historically, Manon Choquet has obtained oversize load permits for the many states traversed by Power Transportation and its progeny. Testimony of Judith Hinds. Judith Hinds has seen and heard Manon obtaining permits over the telephone during compliance reviews conducted at the offices of 382, 9100, and 411 at 48 Rue de l’Industrie in L’Assomption, Quebec, the site of Chagnon’s former offices. Testimony of Judith Hinds.

64. Manon Choquet has violated this Court’s Injunction at least twenty-seven times after February 10, 2006 by obtaining oversized load permits to transport loads in the United States.

Exhibits 6, 7, 8, 9. Testimony of Mystery Hankins of Custom Permit Services. Oversize load permits are required for each state that is traversed.

65. Mystery Hankins, the Oversize Load Supervisor for Custom Permit Services, of Columbus, Ohio, testified that Manon of 1180 Chemin Plouffe, St-Jacques, Quebec has been ordering oversize load permits from Custom Permit Services for over five years. *Id.* Mystery has spoken personally with Manon over one hundred times even though other employees take Manon's orders as well. *Id.* She recognizes Manon's voice. *Id.*

66. Since February 10, 2006, Manon has ordered oversize load permits for four different trucking companies—(1) 9135-4902 Quebec, Inc., (2) 9155-2489 Quebec, Inc., (3) 9165-9201 Quebec, Inc. and (4) 6615163 Canada, Inc. *Id.* Exhibits 6-9.

67. The oversize load permits obtained by Manon, after February 10, 2006, have been for the transport of loads in Arizona, Pennsylvania, Massachusetts, Vermont, Oklahoma, Ohio, Illinois, Wisconsin, Missouri, New York, Minnesota, and Michigan. Exhibits 6-9.

68. Among the business records of Custom Permit Services are "work orders" routinely faxed to Custom Permit Services by Manon. Testimony of Mystery Hankins. Among the work orders is one for the company 9135-4902 Quebec, Inc. bearing the following hand written message from Manon:

Send me all invoices for this co. at my office
Freedom Transport, 1180 Chemin Plouffe, St-Jacques,
PQ J0K 2R0 450-839-9489 → fax.
Manon

Exhibit 6.

69. The work orders received by Custom Permit Services from 9155-2489 Quebec, Inc., and 9135-4902 Quebec, Inc. bear the telephone number (450) 839-1183 and the fax number

(450) 839-9489. Manon is the “contact” on all the work orders submitted to Custom Permit Services by all four companies. Exhibits 6-9. The bills for all four companies are paid by Freedom Transport, 1180 Chemin Plouffe, St-Jacques, Quebec. Testimony of Mystery Hankins.

70. In fact, among the documents carried by 6615163 Canada, Inc. when it was stopped at Peace Bridge on December 7, 2006, were two permits obtained by Custom Permit Services, a New York State Department of Taxation and Finance Temporary International Fuel Tax Agreement (FTA) and a Commonwealth of Pennsylvania Special Hauling Permit. Exhibit 14; Testimony of T. J. Webb.

VI. GRAVITY OF THE HARM

71. Among the factors to be considered in assessing a contempt sanction is the character and magnitude of the harm threatened by continued contumacy. In this case, the United States presented compelling evidence concerning the character as well as the magnitude of the harm committed and threatened by Chagnon, Choquet, 9117, 9165 and 6615. Much of this evidence was presented by Judith Hinds, the Safety Program Manager for the Safety Administration. Hinds speaks French fluently, is a certified French to English translator and has been investigating Stéphane Chagnon since 1990. Testimony of Judith Hinds.

72. First, both Judith Hinds and André Pélissier testified that Chagnon and Choquet’s companies, including 6615, have no liability insurance. The insurance certificate produced by 6615 at Peace Bridge on December 7, 2006 indicates that 6615 is insured by “Lloyds.” The Certificate of Lloyd’s Insurance, supposedly issued by Desrosiers & Fils Assurances, Inc., however, is a fabrication. Lloyds does not have an agent named Desrosiers & Fils and the business is not registered, as required, with the Quebec authorities. Testimony of André

Pélissier; Testimony of Judith Hinds. Exhibits 19, 30.

73. In the past, Raiko Transport (alternative name for Freedom Transport) and 3825558 Canada, Inc. have represented that they were insured by Desrosiers & Associes, Inc., 541 rue Queen, L'Epiphanie, PQ. *See* Exhibit 30. Among the business records of the Safety Administration are two such insurance certificates. *See* Exhibit 30. André Pélissier testified, based upon his personal investigation, that this business does not exist and, furthermore, that the address 541 Rue Queen does not exist in L'Epiphanie, Quebec. Exhibits 19, 30. Testimony of André Pélissier.

74. Second, 9117, 9165 and 6615 have no Motor Carrier licenses and, thus, are not authorized to conduct transportation services in the United States. Testimony of Judith Hinds; *see* Chart, Exhibit 25. Rather, Chagnon and Choquet have stolen the MC number of an unrelated Canadian transport company with the name Freedom Transportation, Inc. located in Ontario. Testimony of Judith Hinds. That stolen MC number—270632— appears on the business records of C&S Freightways. Exhibits 16, 17 and 18. Freedom Transportation Inc. of Ontario did not realize that its MC number had been commandeered until it began to receive complaints from Chagnon's customers. Testimony of Judith Hinds.

75. Third, Freedom Transport, 9117, has stolen the identity of Raiko Transport Inc., a legitimate Quebec carrier operated by Julian Sirbu. Testimony of Judith Hinds. In February of 2005, Raiko carried a load brokered by Freedom Transport. In so doing, Raiko provided its proof of insurance and other documents to Stéphane Chagnon. Subsequently, Freedom Transport began to operate under the name Raiko Transport and utilized Raiko's proof of insurance and MC number. *Id.*; *see also* Exhibit 4 (delivery of FedEx package from Tom Walter to Stéphane

Chagnon at Raiko Transport, 1180 Chemin Plouffe, St-Jacques, QC).

76. Fourth, 9165 presented a forged bond authorization supposedly issued by Schneider Specialized Carriers, Inc. to Customs and Border Protection at the Champlain POE on November 14, 2006. Testimony of Judith Hinds. Upon investigation, Judith Hinds learned that the division of Schneider that supposedly issued the bond authorization had been sold months earlier and that Barbara A. Vitchus (whose signature appears on the letter) had not worked for the company for many months. Testimony of Judith Hinds. The documents are a cut and paste fabrication. Exhibit 12.

77. Fifth, Chagnon and Choquet and their companies engage in “point to point” transportation in the United States. This is a violation of the cabotage laws which forbid a Canadian carrier from transporting loads from one point to another within the United States. Canadian carriers are allowed only to carry loads from a point outside the United States to a point within the United States or from a point within the United States to a point outside the United States. Testimony of Judith Hinds; Testimony of Trooper Dale Steger.

78. Sixth, Chagnon and Choquet have altered the serial numbers of the trailers they utilize and have switched the license plates on the trailers to escape detection in Quebec and the United States. See Decision of the Quebec Transportation Commission, dated September 27, 2005, Exhibit 28.

79. The trailer held at Peace Bridge bears the Ontario License Plate A3105Y, which is an expired and, therefore, invalid license plate. Under the driver’s seat of the 1999 Western Star Tractor, however, was a Quebec trailer license plate No. RV69674. This loose plate is assigned to a trailer owned by 411, a company associated with Chagnon. See Chart; Exhibit 25. This

company, however, has been forbidden to operate in Quebec and this plate has been withdrawn by the Societe de l'assurance automobile du Quebec (SAAQ) (similar to Motor Vehicle Department in the United States). Exhibit 28. Among the papers carried by Yves Mercier on December 7, 2006 is an instruction to the driver to "change the plate." Exhibit 14. Neither of the trailer plates, however, match the serial number on the trailer which appears to have been altered. *See* photos, Exhibit 14. Testimony of Judith Hinds; Testimony of André Pélissier.

80. Seventh, since the entry of the Injunction in this matter, the Safety Administration has received four separate complaints documenting that Stéphane Chagnon has held loads hostage and has refused to deliver them to United States customers absent further remuneration. One of these "hostage loads" was the load brokered by C&S Freightways that was abandoned at a Husky Truck Stop in Canada . Testimony of Judith Hinds; Testimony of Annie Boyce.

81. Eighth, Chagnon's companies carry forged and altered documents. For instance, the trailer registration carried by Mercier at Peace Bridge is an altered document. It appears that the name 66151163, as owner of the trailer, has been superimposed upon a trailer registration previously issued to 6192301 Canada, Inc. ("Heavy Hauling"). This trailer is not registered to 6615163 Canada, Inc. Similarly, the Customs Bond Authorization is a forgery as well as the insurance certificate. Testimony of Judith Hinds.

82. The most egregious violations by these individuals and companies is their complete evasion of motor carrier safety regulations. They have no MC licenses, have not registered with the Safety Administration, and have satisfied none of the minimum safety requirements to operate in the United States. As can be seen by the numerous Roadside Inspection Reports, the carriers have repeated and uncorrected safety violations including driver log violations and

mechanical problems. Because these carriers are hauling oversize loads on the highways of the United States, their evasion of safety regulations is especially heinous.

83. The evasion of motor carrier regulations is achieved by the formation of alter ego companies that are managed and operated by Chagnon and Choquet. In fact, on March 1, 2007, Yves Mercier formed a new corporation in Quebec called 91785923 Quebec, Inc. Testimony of Michel Fradette. On March 7, 2007, 6615 filed an application with the Quebec Transportation Commission to transfer the 1999 Western Star Tractor (being held as security by this Court) to the new company, 91785923 Quebec, Inc. *Id.* The Commission has scheduled hearings on this transfer request. *Id.*

84. Chagnon, Choquet and their alter ego companies ignore with impunity the OOSOs of the Safety Administration, the Unfit Orders of the Quebec Transportation Commission and the Injunction issued by this Court. Only severe sanctions will hope to deter them.

85. A penalty of \$15,000 for each of the of the 14 operating violations and \$2000 for each of the 27 permit violations is appropriate. Stéphane Chagnon, Manon Choquet, 9117, 9165 and 6615 are jointly and severably liable for these contempt sanctions which total \$264,000.

In light of the foregoing, Plaintiff's motion for contempt is GRANTED. A separate Order of Contempt will be issued.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 5th day of April, 2007.

/s/ J. Garvan Murtha

J. Garvan Murtha

United States District Judge